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Attorneys for Amazon Services LLC

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re:

POTENTIAL DYNAMIX LLC,
Debtor.

Case No. 2:11-bk-28944-DPC

Chapter 11

Adv. No. 2:13-ap-00799

TIMOTHY H. SHAFFER, Chapter 11
Trustee.

**AMAZON SERVICES LLC'S
NOTICE OF SERVICE OF
SUPPLEMENTAL
SUBMISSION OF DEPOSITION
DESIGNATIONS**

Plaintiff.

vs.

AMAZON SERVICES LLC,

1 **NOTICE IS HEREBY GIVEN** that on April 2, 2021, Amazon provided to the
2 Court and served on counsel for the Trustee a second flash drive titled “Amazon
3 Supplemental Submission of Deposition Designations.” The second flash drive contains
4 only seven additional deposition designations that were not included in the parties’ joint
5 submission containing over 500 designations.

6 Because the Court has yet to rule on the admissibility of either party’s deposition
7 designations, because the Court informed the parties that it wants to hear all of the
8 information that the parties wish to offer, because the parties agreed prior to and during trial
9 that they would likely have to make alterations and corrections to their designations, and
10 because the Trustee moved to admit at trial new exhibits not previously disclosed and
11 offered additional deposition designations (via video) not previously identified, Amazon is
12 providing the Court with these supplemental designations for its consideration. *Compare*
13 ECF No. 332-1 (Feb. 5, 2021) (pre-trial list of exhibits), *with* 2/16/21 Trial Tr. at 2 (listing
14 additional Exhibits 178–83); *see also* Declaration of Eric J. Weiss in Support of Notice
15 (“Weiss Decl.”) ¶¶ 2–3.

16 The Court directed the parties to submit after trial a single flash drive with all of the
17 deposition designations offered for consideration, the exhibits admitted at trial, and a list of
18 acronyms referenced at trial. 2/18/21 Trial Tr. at 50:13–17. To assist the Trustee and his
19 counsel, Amazon offered to prepare the final materials and flash drive for submission.
20 Weiss Decl. ¶ 4. Amazon provided the Court with that flash drive today.

21 For the Court’s convenience and to comply with the Court’s direction, Amazon
22 sought to include on that single flash drive the seven supplemental designations referenced
23 here. *Id.* ¶ 5. Amazon did not ask the Trustee to stipulate to the admissibility of these
24 supplemental designations; it merely sought to include them on the single flash drive for
25 the Court’s consideration. *Id.* ¶ 6. The Trustee refused. *Id.* Amazon offered to include the
26 Trustee’s objections on the designation spreadsheet. *Id.* ¶ 7. The Trustee refused. *Id.*
27 Amazon invited the Trustee to provide any counter-designations he felt were warranted. *Id.*
28 The Trustee refused. *Id.* Amazon offered to highlight the designations in the transcripts in

1 a different color to distinguish them from the pretrial designations. *Id.* ¶ 8. The Trustee
2 refused. *Id.*

3 The only explanation the Trustee has offered for his refusal to allow the supplemental
4 designations on the single flash drive is that the trial has ended. *Id.* ¶ 9. But the Court has
5 not yet ruled on the admissibility of any of the offered deposition designations, and the
6 parties are offering all of their designations for the Court's consideration post-trial. *Id.* ¶ 10.
7 Amazon is not attempting to reopen evidence. Amazon is not trying to add new exhibits.
8 The supplemental designations come from the same deposition transcripts that the parties
9 are already submitting to the Court in full. *Id.* ¶ 11. In other words, the Court already has
10 this testimony. *See id.*

11 Because the Trustee would not agree to include Amazon's supplemental
12 designations on the single flash drive requested by the Court, Amazon has provided a
13 second flash drive containing those designations.

14

15

Dated: April 2, 2021

By: s/ Eric J. Weiss

16 Richard M. Lorenzen (Bar No. 006787)

17 John S. Kaplan (*Pro Hac Vice*)

18 Eric J. Weiss (*Pro Hac Vice*)

Mallory Gitt Webster (*Pro Hac Vice*)

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20 *Attorneys for Amazon Services LLC*

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CERTIFICATE OF SERVICE

On this date I caused to be served on each of the attorneys identified below, via the delivery methods indicated below, a copy of the foregoing document, as follows:

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Via the Clerk's eFiling Application
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Attorneys for Chapter 11 Trustee

Dated: April 2, 2021

s/ Mallory Gitt Webster